

**HOUSE BILL NO. 319**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/11/22

Referred: State Affairs, Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1    **"An Act relating to criminal law and procedure; relating to the crime of harassment;**  
2    **relating to the duty to register as a sex offender; amending the definition of 'sex offense';**  
3    **relating to lifetime revocation of a teaching certificate for certain offenses; relating to**  
4    **the definition of 'domestic violence'; relating to multidisciplinary child protection teams;**  
5    **relating to arrest authority for pretrial services officers and probation officers; and**  
6    **providing for an effective date."**

7    **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8        **\* Section 1.** AS 11.41.260(a) is amended to read:

9                (a) A person commits the crime of stalking in the first degree if the person  
10               violates AS 11.41.270 and

11                       (1) the actions constituting the offense are in violation of an order  
12               issued or filed under AS 18.66.100 - 18.66.180 or issued under former  
13               AS 25.35.010(b) or 25.35.020;

(2) the actions constituting the offense are in violation of a condition of probation, release before trial, release after conviction, or parole;

(3) the victim is under 16 years of age;

(4) at any time during the course of conduct constituting the offense, the defendant possessed a deadly weapon;

(5) the defendant has been previously convicted of a crime under this section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another jurisdiction with elements similar to a crime under this section, AS 11.41.270, or AS 11.56.740; or

(6) the defendant has been previously convicted of a crime, or an attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.117, 11.61.118 [AS 11.61.118], 11.61.120, or (B) a law or an ordinance of this or another jurisdiction with elements similar to a crime, or an attempt or solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460, AS 11.56.807, 11.56.810, AS 11.61.117, 11.61.118 [AS 11.61.118], or 11.61.120, involving the same victim as the present offense.

\* **Sec. 2.** AS 11.61 is amended by adding a new section to read:

**Sec. 11.61.117. Harassment in the first degree.** (a) A person commits the crime of harassment in the first degree if, under circumstances not proscribed under AS 11.41.434 - 11.41.440, the person intentionally subjects another person to offensive physical contact by touching, directly or through clothing, another person's genitals, buttocks, or female breast.

(b) Harassment in the first degree is a class C felony.

\* **Sec. 3.** AS 11.61.118 is amended to read:

**Sec. 11.61.118. Harassment in the second [FIRST] degree.** (a) A person commits the crime of harassment in the second [FIRST] degree if, under circumstances not proscribed under AS 11.41.434 - 11.41.440, the person violates AS 11.61.120(a)(5) and the offensive physical contact is contact

(1) with human or animal blood, mucus, saliva, semen, urine, vomitus, or feces; or

(2) by the person touching through clothing another person's genitals, buttocks, or female breast.

(b) Harassment in the **second** [FIRST] degree is a class A misdemeanor.

\* **Sec. 4.** AS 11.61.120 is amended to read:

**Sec. 11.61.120. Harassment in the third [SECOND] degree.** (a) A person commits the crime of harassment in the **third** [SECOND] degree if **the person** [, WITH INTENT TO HARASS OR ANNOY ANOTHER PERSON, THAT PERSON]

(1) **with intent to harass or annoy another person,** insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response;

(2) **with intent to harass or annoy another person,** telephones another and fails to terminate the connection with intent to impair the ability of that person to place or receive telephone calls;

(3) **with intent to harass or annoy another person,** makes repeated telephone calls at extremely inconvenient hours;

(4) **with intent to harass or annoy another person,** makes an anonymous or obscene telephone call, an obscene electronic communication, or a telephone call or electronic communication that threatens physical injury or sexual contact;

(5) **knowingly** subjects another person to offensive physical contact;

(6) **with intent to harass or annoy another person, and** except as provided in AS 11.61.116, publishes or distributes electronic or printed photographs, pictures, or films that show the genitals, anus, or female breast of the other person or show that person engaged in a sexual act;

(7) **knowingly and** repeatedly sends or publishes an electronic communication that insults, taunts, challenges, or intimidates a person under 18 years of age in a manner that places the person in reasonable fear of physical injury; or

(8) under circumstances not proscribed under AS 11.41.455, AS 11.61.125, or 11.61.128, **with intent to harass or annoy another person,** repeatedly sends to another person, publishes, or distributes electronic or printed photographs, pictures, or films that show the genitals of any person.

(b) Harassment in the **third** [SECOND] degree is a class B misdemeanor.

\* **Sec. 5.** AS 12.63.010(b) is amended to read:

(b) A sex offender or child kidnapper required to register under (a) of this section shall register with the Department of Corrections if the sex offender or child kidnapper is incarcerated or in person at the Alaska state trooper post or municipal police department located nearest to where the sex offender or child kidnapper resides at the time of registration. To fulfill the registration requirement, the sex offender or child kidnapper shall

(1) complete a registration form that includes **the following information, if applicable:** [, AT A MINIMUM,]

(A) the sex offender's or child kidnapper's **full** name, **mailing and physical** address, **school address, telephone numbers used by the sex offender or child kidnapper, social security number, passport information, citizenship status, physical address of employment, name of employer** [PLACE OF EMPLOYMENT], **job title**, and date of birth;

(B) each conviction for a sex offense or child kidnapping for which the duty to register has not terminated under AS 12.63.020, the date of the sex offense or child kidnapping convictions, the place and court of the sex offense or child kidnapping convictions, and whether the sex offender or child kidnapper has been unconditionally discharged from the conviction for a sex offense or child kidnapping and the date of the unconditional discharge; if the sex offender or child kidnapper asserts that the offender or kidnapper has been unconditionally discharged, the offender or kidnapper shall supply proof of that discharge acceptable to the department;

(C) all aliases used;

(D) the sex offender's or child kidnapper's driver's license number;

(E) the description, license numbers, and vehicle identification numbers of motor vehicles, **including watercraft, aircraft, motorcycles, and recreational vehicles**, the sex offender or child kidnapper has access to, regardless of whether that access is regular or not;

(F) any identifying features of the sex offender or child kidnapper;

(G) anticipated changes of address and any temporary lodging used by the sex offender or child kidnapper;

(H) a statement concerning whether the offender or kidnapper has had treatment for a mental abnormality or personality disorder since the date of conviction for an offense requiring registration under this chapter; [AND]

(I) each electronic mail address, instant messaging address, and other Internet communication identifier used by the sex offender or child kidnapper; and

**(J) professional licensing information;**

(2) allow the Alaska state troopers, Department of Corrections, [OR] municipal police, or any peace officer to take a complete set of the sex offender's or child kidnapper's fingerprints and palm prints, and to take the sex offender's or child kidnapper's photograph.

\* **Sec. 6.** AS 12.63.010(d) is amended to read:

(d) A sex offender or child kidnapper required to register

(1) for 15 years under (a) of this section and AS 12.63.020 shall, annually, during the term of a duty to register under AS 12.63.020, on a date set by the department at the time of the sex offender's or child kidnapper's initial registration, provide written verification to the department, in the manner required by the department, of the information provided under (b)(1) of this section [SEX OFFENDER'S OR CHILD KIDNAPPER'S ADDRESS] and notice of any changes to the information previously provided under (b)(1) of this section;

(2) for life under (a) of this section and AS 12.63.020 shall, not less than quarterly, on a date set by the department, provide written verification to the department, in the manner required by the department, of the information provided under (b)(1) of this section [SEX OFFENDER'S OR CHILD KIDNAPPER'S ADDRESS] and notice of any changes to the information previously provided under (b)(1) of this section.

1 \* **Sec. 7.** AS 12.63.010 is amended by adding new subsections to read:

2 (g) If a sex offender or child kidnapper plans to leave the state after having  
3 registered under (a) of this section, the sex offender or child kidnapper shall appear in  
4 person and provide written notice to the department of the plan to leave the state at  
5 least seven calendar days before leaving the state. If a sex offender or child kidnapper  
6 plans to leave the state because of international travel after having registered under (a)  
7 of this section, the sex offender or child kidnapper shall appear in person and provide  
8 written notice to the department of the plan for any intended travel outside the United  
9 States at least 21 calendar days before leaving the state for international travel.

10 (h) If a sex offender or child kidnapper is away from the address provided to  
11 the department under (b)(1)(A) of this section for seven days or more, the sex offender  
12 or child kidnapper shall notify the department in writing of the address being used by  
13 the sex offender or child kidnapper while away from the residence provided under  
14 (b)(1)(A) of this section.

15 \* **Sec. 8.** AS 12.63.020(a) is amended to read:

16 (a) The duty of a sex offender or child kidnapper to comply with the  
17 requirements of AS 12.63.010 is as follows:

18 (1) for a sex offender or child kidnapper, as that term is defined in  
19 AS 12.63.100(6)(A), for each sex offense or child kidnapping, the duty

20 (A) continues for the lifetime of a sex offender or child  
21 kidnapper convicted of

22 (i) one aggravated sex offense; or

23 (ii) two or more sex offenses, two or more child  
24 kidnappings, or one sex offense and one child kidnapping; for purposes  
25 of this section, a person convicted of indecent exposure before a person  
26 under 16 years of age under AS 11.41.460 more than two times has  
27 been convicted of two or more sex offenses;

28 (B) ends 15 years following the sex offender's or child  
29 kidnapper's unconditional discharge from a conviction for a single sex offense  
30 that is not an aggravated sex offense or for a single child kidnapping if the sex  
31 offender or child kidnapper has supplied proof that is acceptable to the

department of the unconditional discharge; the registration period under this subparagraph

(i) is tolled for **the period of noncompliance if the sex offender or child kidnapper has failed** [EACH YEAR THAT A SEX OFFENDER OR CHILD KIDNAPPER FAILS] to comply with the requirements of this chapter or is incarcerated for the offense or kidnapping for which the offender or kidnapper is required to register or for any other offense;

(ii) may include the time a sex offender or child kidnapper was absent from this state if the sex offender or child kidnapper has complied with any sex offender or child kidnapper registration requirements of the jurisdiction in which the offender or kidnapper was located and if the sex offender or child kidnapper provides the department with proof of the compliance while the sex offender or child kidnapper was absent from this state; and

(iii) continues for a sex offender or child kidnapper who has not supplied proof acceptable to the department of the offender's or kidnapper's unconditional discharge for the sex offense or child kidnapping requiring registration;

(2) for a sex offender or child kidnapper, as that term is defined in AS 12.63.100(6)(B), the duty continues for the period determined by the department under (b) of this section.

\* **Sec. 9.** AS 12.63.100(7) is amended to read:

(7) "sex offense" means

(A) a crime under AS 11.41.100(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit a sexual offense, or a similar offense under the laws of the other jurisdiction; in this subparagraph, "sexual offense" has the meaning given in AS 11.41.100(a)(3);

(B) a crime under AS 11.41.110(a)(3), or a similar law of another jurisdiction, in which the person committed or attempted to commit

one of the following crimes, or a similar law of another jurisdiction:

- (i) sexual assault in the first degree;
- (ii) sexual assault in the second degree;
- (iii) sexual abuse of a minor in the first degree; or
- (iv) sexual abuse of a minor in the second degree;

(C) a crime, or an attempt, solicitation, or conspiracy to commit a crime, under the following statutes or a similar law of another jurisdiction:

- (i) AS 11.41.410 - 11.41.438;
- (ii) AS 11.41.440(a)(2);
- (iii) AS 11.41.450 - 11.41.458;
- (iv) AS 11.41.460 or AS 26.05.900(c) if the indecent exposure is before a person under 16 years of age and the offender has previously been convicted under AS 11.41.460 or AS 26.05.900(c);
- (v) AS 11.61.125 - 11.61.128;
- (vi) AS 11.66.110, 11.66.130(a)(2)(B), or AS 26.05.900(b) if the person who was induced or caused to engage in prostitution was under 20 years of age at the time of the offense;
- (vii) former AS 11.15.120, former 11.15.134, or assault with the intent to commit rape under former AS 11.15.160, former AS 11.40.110, or former 11.40.200;
- (viii) AS 11.61.117 [AS 11.61.118(a)(2)] if the offender has a previous conviction for that offense;
- (ix) AS 11.66.100(a)(2) if the offender is subject to punishment under as 11.66.100(e);
- (x) AS 26.05.890 if the person engaged in sexual penetration or sexual contact with the victim;
- (xi) AS 26.05.890 if, at the time of the offense, the victim is under a duty to obey the lawful orders of the offender, regardless of whether the offender is in the direct chain of command over the victim;
- (xii) AS 26.05.893 if the person engaged in sexual



1 penetration or sexual contact with the victim;

2 (xiii) AS 26.05.900(a)(1) - (4) if the victim is under 18  
3 years of age at the time of the offense;

4 (xiv) AS 26.05.900 if, at the time of the offense, the  
5 victim is under a duty to obey the lawful orders of the offender,  
6 regardless of whether the offender is in the direct chain of command  
7 over the victim; or

8 (xv) AS 11.61.123 if the offender is subject to  
9 punishment under AS 11.61.123(g)(1) or (2);

10 (xvi) AS 11.61.116 if the offender is subject to  
11 punishment under AS 11.61.116(c)(2);

12 (xvii) AS 11.61.130(a)(2); or

13 (xviii) AS 11.61.140(a)(6) or (7) [AS 11.61.123(f)(1)

14 OR (2)];

15 (D) an offense, or an attempt, solicitation, or conspiracy to  
16 commit an offense, under AS 26.05.935(b), or a similar law of another  
17 jurisdiction, if the member of the militia commits one of the following  
18 enumerated offenses punishable under Article 134, 10 U.S.C. 934 (Uniform  
19 Code of Military Justice):

20 (i) child pornography; or

21 (ii) pandering and prostitution if the person who is  
22 induced, enticed, caused, or procured to engage in a sexual act is under  
23 20 years of age at the time of the offense; or

24 (E) an offense in which the person is required to register as a  
25 sex offender under the laws of another jurisdiction;

26 \* **Sec. 10.** AS 14.20.030(b) is amended to read:

27 (b) The commissioner or the Professional Teaching Practices Commission  
28 shall revoke for life the certificate of a person who has been convicted of a crime, or  
29 an attempt, solicitation, or conspiracy to commit a crime, involving a minor under  
30 AS 11.41.410 - 11.41.460, AS 11.61.125 - 11.61.127, or a law or ordinance in another  
31 jurisdiction with elements similar to an offense described in this subsection.

1 \* **Sec. 11.** AS 18.66.990(3) is amended to read:

2 (3) "domestic violence" and "crime involving domestic violence" mean  
3 one or more of the following offenses or an offense under a law or ordinance of  
4 another jurisdiction having elements similar to these offenses, or an attempt to commit  
5 the offense, by a household member against another household member:

6 (A) a crime against the person under AS 11.41;

7 (B) burglary under AS 11.46.300 - 11.46.310;

8 (C) criminal trespass under AS 11.46.320 - 11.46.330;

9 (D) arson or criminally negligent burning under AS 11.46.400 -  
10 11.46.430;

11 (E) criminal mischief under AS 11.46.475 - 11.46.486;

12 (F) terrorist threatening under AS 11.56.807 or 11.56.810;

13 (G) violating a protective order under AS 11.56.740(a)(1);

14 (H) harassment under AS 11.61.117, 11.61.118,  
15 11.61.120(a)(2) - (4) [AS 11.61.120(a)(2) - (4)]; [OR]

16 (I) cruelty to animals under AS 11.61.140(a)(5) if the animal is  
17 a pet;

18 (J) interfering with a report of a crime involving domestic  
19 violence under AS 11.56.745; or

20 (K) unlawful contact under AS 11.56.750 - 11.56.755;

21 \* **Sec. 12.** AS 33.05.070 is amended by adding a new subsection to read:

22 (e) At any time within the probation period, the probation officer may file a  
23 complaint with the court and arrest a probationer, with or without a warrant, if the  
24 officer has probable cause to believe the probationer has committed an offense under  
25 AS 11.56.759.

26 \* **Sec. 13.** AS 33.07.030(g) is amended to read:

27 (g) A pretrial services officer may

28 (1) recommend pretrial diversion to the court and parties before  
29 adjudication in accordance with the guidelines established by the commissioner under  
30 AS 33.07.020(6);

31 (2) if the officer has probable cause to believe the defendant has

committed an offense under AS 11.56.320, 11.56.610, 11.56.730, 11.56.750, 11.56.757 [AS 11.56.730 OR 11.56.757] or has violated the defendant's release conditions, file a complaint with the court and

(A) arrest, with or without a warrant, a defendant who has been released while awaiting trial; or

(B) request the court to issue warrants related to any violation of the defendant's release conditions;

(3) refer interested defendants for substance abuse screening, assessment, and treatment on a voluntary basis and assist any defendant whose offense or criminal history identified a dependency on, abuse of, or addiction to alcohol or controlled substances with accessing and obtaining appropriate treatment in the community to address those needs;

(4) recommend that a defendant charged with an offense involving the use of alcohol or controlled substances comply with a program established under AS 47.38.020; and

(5) coordinate with community-based organizations and tribal courts and councils to develop and expand pretrial diversion options.

\* **Sec. 14.** AS 47.14.300(a) is amended to read:

(a) The department, a state or municipal agency with expertise in child abuse or neglect, or a tribe recognized by the United States Secretary of the Interior to exist as an Indian tribe under 25 U.S.C. 479a (Federally Recognized Indian Tribe List Act of 1994) with expertise in child abuse or neglect, in partnership with the department, may facilitate the initial establishment of a multidisciplinary child protection team. The purpose of a team is to assist in the evaluation and investigation of reports of child abuse or neglect, as defined in AS 47.17.290, made under AS 47.17 or initiated by the department or a law enforcement agency; to assist in the evaluation and investigation of reports of sexual contact or sexual penetration, as defined in AS 11.81.900, occurring between children under 13 years of age; and to provide consultation and coordination for agencies involved in child-in-need-of-aid cases under AS 47.10. The multidisciplinary child protection teams shall

(1) ensure that investigations involving child abuse or neglect are

1 coordinated and conducted by trained investigators;

2 (2) take and recommend steps to avoid duplicative interviews of  
3 children;

4 (3) assist in the reduction of trauma to a child and family involved in  
5 an investigation of child abuse or neglect; and

6 (4) review records, provide consultation, and make recommendations  
7 to the department pertaining to a child-in-need-of-aid case under AS 47.10 referred to  
8 the team by a team member.

9 \* **Sec. 15.** AS 47.17.020(e) is amended to read:

10 (e) The department shall immediately notify the nearest law enforcement  
11 agency if the department

12 (1) concludes that the harm was caused by a person who is not  
13 responsible for the child's welfare;

14 (2) is unable to determine

15 (A) who caused the harm to the child; or

16 (B) whether the person who is believed to have caused the  
17 harm has responsibility for the child's welfare; or

18 (3) concludes that the report involves

19 (A) possible criminal sex abuse or sex offenses under  
20 AS 11.41.410 - 11.41.458, AS 11.61.116, **11.61.117** [11.61.118(a)(2)],  
21 11.61.120(a)(6), 11.61.123, or 11.61.128, including sex offenses committed by  
22 a minor against a minor; or

23 (B) abuse or neglect that results in the need for medical  
24 treatment of the child.

25 \* **Sec. 16.** The uncodified law of the State of Alaska enacted in sec. 142(c), ch. 4, FSSLA  
26 2019, is amended to read:

27 (c) The following sections apply to the duty to register as a sex offender for  
28 offenses committed **before, on,** or after the effective date of those sections:

29 (1) AS 12.63.010(d), as amended by sec. 82 of this Act;

30 (2) AS 12.63.020, as amended by sec. 83 of this Act;

31 (3) AS 12.63.100(6), as amended by sec. 84 of this Act;

(4) AS 12.63.100(7), as amended by sec. 85 of this Act.

\* **Sec. 17.** AS 11.61.118(a)(2) is repealed.

\* **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to read:

APPLICABILITY. (a) AS 11.41.260(a), as amended by sec. 1 of this Act, AS 11.61.117, enacted by sec. 2 of this Act, AS 11.61.118, as amended by sec. 3 of this Act, AS 11.61.120, as amended by sec. 4 of this Act, AS 33.05.070(e), enacted by sec. 12 of this Act, and AS 33.07.030(g), as amended by sec. 13 of this Act, apply to offenses committed on or after the effective date of those sections.

(b) Except as otherwise provided in this Act, AS 12.63.010(b), as amended by sec. 5 of this Act, AS 12.63.010(d), as amended by sec. 6 of this Act, and AS 12.63.010(g) and (h), enacted by sec. 7 of this Act, apply to the duty to register as a sex offender or child kidnapper for offenses committed before, on, or after the effective date of this Act.

(c) AS 12.63.020(a), as amended by sec. 8 of this Act, applies to the tolling of the duty to register as a sex offender or child kidnapper on or after the effective date of this Act for determinations of noncompliance made by the Department of Public Safety on or after the effective date of this Act.

(d) Nothing in AS 12.63.020(a), as amended by sec. 8 of this Act, may be construed as invalidating a decision of the Department of Public Safety to toll the period of registration or continue the period of registration under AS 12.63 before the effective date of this Act.

(e) AS 12.63.100(7), as amended by sec. 9 of this Act, applies to the duty to register as a sex offender for offenses committed on or after the effective date of this Act.

(f) AS 14.20.030(b), as amended by sec. 10 of this Act, applies to convictions occurring before, on, or after the effective date of this Act for conduct occurring before, on, or after the effective date of this Act.

\* **Sec. 19.** This Act takes effect July 1, 2022.